

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A **workshop meeting** of the **Committee on Land Use**, Standing Committee of Berkeley County Council, was held on Tuesday, **May 17, 2011**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:01 p.m.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; ex-officios Mr. Daniel W. Davis, County Supervisor, Mr. Timothy J. Callanan, Council District No. 2, and Mr. Dennis L. Fish, Council District No. 5; Ms. Nicole Scott Ewing, County Attorney; and Mrs. Catherine Windham, Acting Clerk of County Council. Mr. Robert O. Call, Jr., Council District No. 3, was excused from the meeting.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Farley called the meeting to order. Mr. Robie Robbins gave the Invocation, and Chairman Farley led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley: "I've been asked by the ladies to – when you come to the microphone, please put your name and address; and also, for the Council Members to speak into the microphones, because it was taped, and they can do that. I'm gonna give you this mike in a minute. We only have one item on the agenda."

A. Discussion of an ordinance to **amend** certain sections of **Ordinance No. 01-08-35**, the Berkeley County Zoning and Development Standards Ordinance, as amended, by deleting references to borrow pits and creating conditions and provisions for the **regulation of mines** within the F-1, HI and LI Zoning Districts.

Mr. Eric Greenway, Zoning and Planning Director: "We brought this amendment before you all in April at the Land Use Committee at that point after hearing some public input and an explanation on the mining amendment. You all requested that the amendment be held for up to 60 days, for the purpose of doing some further explanation and exploring and researching to the items. That resulted in this workshop this evening. As a result of this, one of the things that Chairman Farley and I have taken upon ourselves to do would be to invite Mark Williams, the DHEC representative for this area who handles the mining and reclamation process for this region, the Charleston Region. Mark and I have spoken on several occasions, and I have always found him to be very

knowledgeable, very fair in his comments, and he knows the process very well. He's gonna come up here now and talk to you all a little bit about the DHEC process, what they look for and what they can and cannot do with regards to the process and public hearings and things like that. And, you can ask him any questions you may have. I, unfortunately, have to step out of the room for a few minutes. Their BZA Meeting is going on this evening, and I've got to go down and present a request, but I should be back in here in the next 10 or 15 minutes, so I'm gonna turn it over to Mr. Williams, and I think he has a DHEC representative with him from Columbia that I will let him introduce, as well. So, I'll be back in a moment."

Chairman Farley: "Thank you, Eric."

Mr. Mark Williams: "Good evening; as was said, my name is Mark Williams with the South Carolina Department of Health and Environmental Control (DHEC). I work out of the Region 7 Office out of North Charleston, down on the old Navy Base. I also have with me Wendy Hamilton out of our Columbia Office. She is Section Manager up there. She works very closely with permitting on sites as they come through. I can sit here and read off a sheet of paper or go through different things. I've got some information that I can give to you, which briefly sort of goes through how we handle permitting of mine sites; or if you have specific questions as to how we go through the process. I'd be happy to answer the questions, or however ya'll would like for me to proceed with it."

Chairman Farley: "Why don't you, you give us the rundown when someone wants to do a mine."

Mr. Williams: "Ok; let me give this information to you if I may."

Chairman Farley: "Ok."

Mr. Williams: "What is noted on the form there, and pardon me while I get my glasses, so I make sure I can see what I'm looking at here, basically, how we define mining. And, I know there had been some discussion with Eric and the committee that was looking at this, as to how we define mining. Basically, within the Mining Act, it defines a mine site if the material is sold or used in a business. So, it uses a business definition, although, we're not regulating the business, we're looking at the environmental impact of the activity itself. So, if the material is sold or being used in a business whether it's for landscaping or anything of that nature, we require a mining permit. We have certain forms that have to be filled out, submitted to us requiring certain information to be sent to us. Based upon the activity, area that they may be mining, there may be other supplemental information that has to be submitted to us to be able to determine what the impact of that application will be. There are two different type of permits that we look at. One of them is an individual mine operating permit. That would be for any site over five acres. For sites less than five acres, most of those are permitted as a general mine operating permit. The general mine operating permits are not public notice. The general permit itself was public noticed. Agencies, other people, had their

opportunity to comment on it. Certain things were changed within that. So, for sites less than five acres, that is more of an administrative process that we go through. The permit is issued, and counties, other people, are notified at the end of that process. With the individual permit, that is public noticed. Once we receive a completed application, then that is public noticed one day a week for two weeks in a newspaper of local subscription, and we also notice – as part of that application package, we require the applicant to send into us the most recent tax map with all adjoining landowners. If they have a common property line, then we also send a notice to the adjoining property owners that such-and-such a company has made application to the Department of Health and Environmental Control for a mine operating permit. It is also posted on our website that the company has made application for that. A period after the last notice, there's a 15-day comment period. So, basically, from the time of the first notice being put in the newspaper and letter and all going out to adjoining land owners, there's about 22 days there under which we can receive a request for a public hearing. That request has to be by 10 or more people or by a governmental entity or a group that has 10 or more members. If we receive that request for a public hearing, then we will schedule a public hearing. And, there is a certain time frame by which all of that has to be done also, but, we will, at that public hearing, receive comments from people who would like to make comments at that public hearing concerning that activity.”

Committee Member Pinckney: “Mr. Chairman?”

Chairman Farley: “Yes, Sir; Mr. Pinckney”

Committee Member Pinckney: “I’ve got a question, Mr. Williams.”

Mr. Williams: “Yes, Sir.”

Committee Member Pinckney: “I understand about the public notice, but do I understand you to say that the public hearing is not an automatic thing? It has to be requested with some stipulations.”

Mr. Williams: “That is correct. It is not an automatic thing. The South Carolina Mining Act does not specify that we have a public hearing for every application. The majority of the applications that we receive do not have public hearings.”

Committee Member Pinckney: “Let me ask another question. In that regard, well, let me put it in a way of a statement – then, I can conclude that DHEC does not have the – is not as sensitive to the residents of that particular community as the County would be. And, maybe, maybe, that’s not fair to you guys, but I don’t know any other way to put it right now, since we’re talking about sensitivity, because we know that this is going to happen, but our overall concern is making sure that when it do happen that those people living in the community be given the utmost consideration, make sure that their concerns...”

Mr. Williams: "I know what – I think, I understand what you're trying to say. I would not, maybe, use that terminology. I think we're very sensitive to the citizens of the community and willingly meet with the citizens and discuss issues with them. With the way the Mining Act is written, it states that we have a request from 10 or more people before it..."

Committee Member Pinckney: "Ten or more."

Mr. Williams: "...triggers a public hearing."

Committee Member Pinckney: "Ok."

Mr. Williams: "And, there are many of times when we receive applications, we get phone calls from adjoining landowners asking, 'well, what is this that we've received about a mine site on an adjoining piece of property'. And, I've gone to sites, sat down, talked with them and explained to them what the – what is being proposed on the adjoining piece of property."

Committee Member Pinckney: "Well, strike the statement from what I just said, and let me ask you a question. Once you have a public hearing, will that change – how impacting would that be then on your decision when it comes to, to, to the citizens of that particular community?"

Mr. Williams: "If you will look on the second page there (of a handout to the Committee), starting about half-way down, as we go through the review process there's certain criteria that we go by as far as being able to deny a permit. And, like I say, if you see about in the middle of the page there, it says there, '*The department shall deny an operating permit upon finding that:*', and then there's seven reasons there that are numerated as far as the authority that is given to us by which we can deny a permit."

Committee Member Pinckney: "Ok; I'm just glancing over it right quick."

Mr. Williams: "Sort of looking at it from the County perspective, one thing that I want to make sure that County Council and this sub-Committee here is aware of, again, back on the first page, second paragraph there, there's a very specific statement within the South Carolina Mining Act there, that's Section 48-20-250, that says, '*No provision of this chapter supersedes, affects, or prevents the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county or by an agency or department of this State, except when a provision of the regulation or ordinance is in direct conflict with this chapter*'. The agency realizes that there are land use concerns that is best addressed by the County. In hence to your statement, that ya'll feel like you may be more sensitive to what citizens are concerned with there. And, certainly, if County Council passes certain zoning regulations there, that's up to the County. We're not about to step in and say, '*well, no you can't do that*'. I mean, that's – we actually encourage counties to do that."

Chairman Farley: “Yes, Sir; Mr. Schurlknight.”

Committee Member Schurlknight: “You’re talking, referring to the public hearings – evidently, ya’ll don’t have that many requests for public hearings for these sites. After the mine is up and going, do you get any backlash from the surrounding areas that they didn’t have a public hearing or some things that, I guess, they should have asked for a public hearing to air out? And, with you dealing with the mines, what have you heard from the taxpayers or the landowners around the mines as far as being detrimental to their properties? Do you have anything that you can add to that?”

Mr. Williams: “It’s kind of a difficult way – certainly, there are times that we do receive complaints concerning mine sites. I mean, the nature of the activity – there is, at times, noise associated with it – the back-up alarms associated with equipment that they are required to have by the Mine Safety Health Administration – at times, will create noise that citizens hear...”

Committee Member Schurlknight: “Ok...”

Mr. Williams: “We do hear...”

Committee Member Schurlknight: “You’re saying at times. Can you narrow that scope down for me a little bit, you know, because my definition of times might be 10 percent, to somebody else it might be 90 percent? What I’m, what I’m trying to get a handle on – with the past history of mining, as dealt with DHEC and yourself, and ya’ll dealing with the landowners that lives around the mines, have you heard a bunch, a lot of detrimental or negative impacts on the landowners around that?”

Mr. Williams: “I don’t know that I can accurately answer that question because of the – I can answer it one way, and a citizen next to a mine site may answer it with an indication that there is a great deal of negative impact to them. From the perspective of the agency, as far as, again, I wish I could put a percentage on how many of the sites that we receive complaints on. That’s something I really cannot do. I mean, I could go back through within our data base system and try to put a number on that possibly, but that is something I really – I would not be comfortable trying to do that just simply because I don’t have that data within my head to be able to do that. But, there are times, yes, that we do receive complaints.”

Committee Member Schurlknight: “Yeah, you know, opinions are very subjective on this, and, you know, it sounds like, that you all give an ample opportunity for public hearings, and the people are not taking advantage of it. I don’t know whether they’re not seeing it in the paper or just, you know, I’m not sure what it is, but you would think if there was a big outcry in those areas that they definitely would be asking for public opinions.”

Mr. Williams: “And, there are certain sites that have generated a good deal of public opinion, and we’ll have the public hearings and other processes that we will go through as a result of that.”

Committee Member Schurlknight: “Right.”

Chairman Farley: “And, they also contact the landowners adjacent to it.”

Committee Member Schurlknight: “Right; and the thing – what I try to look at is through indicators, and that’s what I was asking you. What indications have you had over – the history of these mines, any indicators that you can let us know – say, ‘*yeah, this kind of stands out*’ or ‘*this kind of stands out*’. I know it’s easy for you to stand up here and say ‘*yeah*’, put it back on the County, and ya’ll can take care of that, but, you know, I’d just like to pull off you guys as a resource, and get some information.”

Mr. Williams: “And, we try to get as much information as we can as we’re going through the process. There are times when mine applications or mining companies, before they submit the application, they may come in and talk with us just to sort of see what information we may have, whether or not we perceive there may be a concern in certain areas. As far as mining activities, where we receive complaints, probably, the majority of them are at, I would say, rock quarries, where they use blasting, things of that nature.”

Committee Member Schurlknight: “And, I think, that’s a big difference in rock quarries and trying to get sand out of a dirt pit. I think, I think there’s a big difference in the operation of it. I’ve got one more, quick question. I’ll hold it until a little later on. I think Mr. Davis had a question.”

Committee Member Steve Davis: “Mr. Williams, what I want to do is I want to get back to a premise that you laid out. And, I hear Jack, but Jack is more talking about once the cow is already out of the pastures, and that’s a whole different scenario. But, I think we need to go back to the inception, which the statute said is most appropriate or compatible land use is best determined on the local level. It may be a difficult issue; it might be a hard choice to make, but at the end of the day it seems that the most qualified individuals is folks who are more closer to the proximity of the land or to the issues pertaining to the land use. And so, what my concern, primarily, is that process before the application is actually rendered. The whole scenario that you have outlined was followed in the Greenbay Community situation, this whole litany, the process, but it was always approval. And, I think, what we have been trying to accomplish, and I don’t want to put you in the hot spot, is that we, from this County Council’s standpoint, is trying to inject or involve something more tailor-made with local community input, which is in compliance with the bigger picture of how this law was set up and even put in place, that there should be local concerns. Do you agree with that?”

Mr. Williams: “Yeah; I would not disagree with that. I mean that certainly, again, from County perspective, you’d be much better within this County to determine

what would be compatible land use than a state agency that would be trying to look at it from a state-wide standpoint.”

Committee Member Steve Davis: “And, just for an example, take Number 2, *‘the operation will have undue adverse effects’*, and when we were talking about *‘the department shall deny an operating permit upon the finding of these facts’*; ok; *‘operation will have undue adverse effects on wildlife or freshwater, or marine fisheries’*. What I am trying to say in that regard, the state view these as primary concerns for the state. You would agree?”

Mr. Williams: “We are looking at it from a state standpoint.”

Committee Member Steve Davis: “That’s right. Now, what is so far a feel for local communities putting in certain objective criteria that address their concerns on a local community interest, which is not currently covered specifically by DHEC?”

Mr. Williams: “I mean, that goes back to the premise that I’ve been – I’ve said before. That certainly is within the jurisdiction of the County to do so. We have a state law that we have to operate under that doesn’t always have the capability of taking that into consideration.”

Committee Member Steve Davis: “So, at the end of the day, what we’re really saying is that this County wants to – that these local elected officials want to take on that responsibility – is left for us to formulate, promulgate the kind of laws that we really need to address local concerns if we really want to do it.”

Mr. Williams: “That would be up to the County to do that; yes.”

Committee Member Steve Davis: “Thank you; ok.”

Chairman Farley: “Do you have any questions you wanted to ask? Go ahead.”

Committee Member Schurlknight: “Have ya’ll ever had a case where ya’ll denied, because it had an adverse affect on the community? Have you denied any kind of permits for that?”

Mr. Williams: “As far as, specifically, adverse affect on the community?”

Committee Member Schurlknight: “Yeah; was there any reasons brought from the community, and ya’ll denied a permit.”

Mr. Williams: “We have denied permits.”

Committee Member Schurlknight: “Right; yeah; I know, ya’ll probably have because of the alligator and the cockaded woodpecker, but I’m talking about as far as the – actually affecting the way of life, like Councilman Davis was talking about, the way of

life of people around there as having an adverse affect, whether it's noise, dust or whatever might be, any of those type, personal type, reasons – people reasons. Have ya'll denied any kind of permits for that?"

Mr. Williams: "I can't think of any reason there. I know, years ago, and of course, things change, because of litigation sometimes, but there had been – I think, there's wording in there that it has to be compatible with county zoning. There had been times in the past if we received notification by the county that it did not meet their zoning that we would deny it or just send a letter to them saying it's approved conditional upon getting the necessary approval from the county. That got appealed through the court system, and we were told that we can't do that; we'd still have to issue our permit; the county is left up to enforce their own regulations at that point."

Committee Member Schurlknight: "And, my line of my questions are coming from the point to where I agree, the public needs some input into it, you know, and we need to look and make sure we don't disrupt, at minimum at best, on that, but my concern is the duplication of government laying another layer of government out there that DHEC is already addressing or the ordinance that we have to address some things that we're looking at in this ordinance here. And, I'm just making – trying to make sure that we're not just adding more red tape on top of red tape and just making the process even that much longer for an applicant. So, that, that was the reason for those questions. I'm trying to figure out what ya'll do, don't do and trying to figure out, you know, that we really don't need that, because DHEC does – that type of thing. Thank you."

Mr. Williams: "Again, I know there are other counties within the state that do require other type permits for a mining activity or similar type activities, and as far as I know, many of those counties will process their permit at the same time we were processing ours, so it's sort of a dual thing there."

Chairman Farley: "All permits have to – what I'm trying to say is all acreage has to come under a permit – five acres and below?"

Mr. Williams: "Yes."

Chairman Farley: "In other words, if somebody just wanted to dig a one-acre pond on their property, they can't do it. They'd have to get a permit."

Mr. Williams: "If the material is sold or used in a business, they have to have a mining permit. If they dig a pond, and the dirt stays on their property, they do not have to have a mining permit."

Chairman Farley: "That's correct."

Mr. Williams: "There are other permits that they may fall under still as far as far as a land disturbance permit."

Chairman Farley: "If the dirt stays on their property, is there a depth restriction?"

Mr. Williams: "Again, if the material is not sold or used in a business and stays on their property, we don't get involved."

Chairman Farley: "Mr. Callanan."

Mr. Callanan: "And you said used for a business, even if they gave it away, as long as [inaudible]?"

Mr. Williams: "And, that's always a trick question. If the – and, many times we're told that by a land owner, that he's giving the dirt away. Many times that contractor will..."

Chairman Farley: "Dig the hole."

Mr. Williams: "Dig the hole, but he'll take the dirt and use it in a business, and we usually look at it from that standpoint. If it's used in a business, somebody needs a permit."

Chairman Farley: "Would, would someone try to circumvent that by digging the dirt and stockpiling it, or would that double the cost? Probably double the cost."

Mr. Williams: "Cost wise, I don't know, but there are times where we've come across that periodically. We look at the unique situation each time and try to make the determination as to whether or not there is something that needs to be permitted there."

Chairman Farley: "Do ya'll set the buffers or is that a County issue on setting the buffers?"

Mr. Williams: "The only buffer that is set within the Mining Act is concerning blasting. Other than that, we don't. And, with general permits, we do have buffers set as far as to the property line and to wetlands. Under a general permit, we do have that."

Chairman Farley: "From the wetlands or from the property line?"

Mr. Williams: "Yes."

Chairman Farley: "Ok."

Mr. Williams: "There's a 50-foot buffer that's put in there between the – a 50-foot undisturbed buffer under the general permit. And, a lot of that, again, you have such a diversity of area across the state that we look at it on an individual basis. If you've got a site that there's just timber property adjacent to it or something like that where there's no visual impacts, then we would go with a smaller buffer. If you've got residential areas, then we would require a larger buffer."

Committee Member Steve Davis: "Mr. Chairman?"

Chairman Farley: "Mr. Davis."

Committee Member Steve Davis: "This we do know though is that the other counties that have this two-tier system where it does not disrupt the process, and they both occur at the same time, so they can occur and be..."

Mr. Williams: "It can occur again. I, I would recommend you talk with the industry to see how much of an interruption to the process it may be. I'm looking at it from the wrong angle to make that call."

Committee Member Steve Davis: "Ok."

Mr. Williams: "Like I say, I know there are other counties that do require county permitting for that type activity. Again, sort of continuing with how we process – on the front page there it does list different groups that receive copies of the permit application within our own agency – the Bureau of Water. Typically, all mine sites also have to have a discharge permit, a National Pollutant Discharge Elimination System Permit for the water that is discharged from the site – the Department of Natural Resources, Army Corps of Engineers, National Oceanic and Atmospheric Administration, our Air Quality folks look at it, Department of Archives and History, US Fish and Wildlife Service, and for the coastal counties here, the Department of Ocean and Coastal Resource Management also. Before we issue our individual permits, we have to have certification from OCRM before we can issue our permit."

Committee Member Steve Davis: "Can I stop you there briefly? There's one agency that, when we were out in Greenbay, we learned it really didn't make a significant difference, and that was South Carolina's Department of Transportation. What role do they play in this whole process?"

Mr. Williams: "They, at times, may come into play, but typically, we are not noticing them up front."

Committee Member Steve Davis: "Ok; and not required to do so neither, apparently."

Mr. Williams: "No; we're not required to do so."

Committee Member Steve Davis: "So, if you have issues of heavy truck uses that is disruptive in the community, that's not a concern, because that's not even part of the process?"

Mr. Williams: "Under our process, correct, it is not."

Committee Member Steve Davis: “And so, if people, individuals, taxpayers or citizens – going back to the appropriate or compatible land use is best determined on the local level, then they may come in at that point and have objective criteria that gives some weight and validity to disruptive aspects of additional traffic flow.”

Mr. Williams: “Again, I don’t know the whole process that either the County or the Public Service Commission or Department of Transportation – I know, typically, a lot of these mine sites also have to get approval for the roads to come out onto the public road.”

Committee Member Steve Davis: “But, it’s not factored in your decision. Ok; thank you.”

Mr. Williams: “I mean, the way – and we’re – of course, this is state law that comes through the state legislature so, this is what we have to operate under.”

Mr. Callanan: “Mr. Chairman?”

Chairman Farley: “Mr. Callanan.”

Mr. Callanan: “I mean, the thing that concerns me is the special exception, and whether it’s a duplication or not, that when the question is asked will private indoor surface water facilities and existing stormwater drainage systems be negatively impacted by the proposed use. Would that be something that would come under the permit that would be issued by DHEC?”

Mr. Williams: “Yes. I mean...”

Mr. Callanan: “So, I mean – yeah; go ahead.”

Mr. Williams: “We look at the discharge. They have to have a National Pollutant Discharge Elimination System Permit. If we ever have a concern as far as the volume of the discharge and the capability of the downstream receiving ditches or streams to handle that, we have, in the past, required them to do flow calculations to look at the drainage that would be receiving the flow, and make sure it is capable of handling the flow that they would be discharging into it.”

Mr. Callanan: “Right; and, you know, just – the only reason I bring that up is there any other thing where there’s duplication as to what the permit process is in DHEC and what is the consideration under the special exception, I think, is repetitive and unreasonably burdensome to the County, and I don’t think we are in the business of determining environmental impacts. That’s DHEC’s domain, and so, while I don’t necessarily have a problem with additional conditions, doing ones that are repetitive, you know, is certainly something that I do have an issue with. So, you know, and that’s one of them, that drainage, so.”

Mr. Williams: "Any other questions at this point?"

Committee Member Schurlknight: [Inaudible]

Chairman Farley: "Mr. Schurlknight."

Committee Member Schurlknight: [Inaudible] "...take care of that problem. Is that how it works at the moment?"

Mr. Williams: "Yes. We will come out, look at the site, and usually, many times, we've already – in the permit may have language in there that they use water trucks, have sprinkler systems, pave the roads, different methods that they can use to try to control the dust."

Committee Member Schurlknight: "And also, ya'll also address the noise if ya'll get complaints with noise from machinery..."

Mr. Williams: "Yes."

Committee Member Schurlknight: "...and all this other stuff?"

Mr. Williams: "As much as we can. Admitting that there are – machinery makes noise."

Committee Member Schurlknight: "Sure."

Mr. Williams: "And, somewhat, I guess, of another subjective thing there as far as..."

Committee Member Schurlknight: "The definition within reason, I guess, is the – when you are trying to define that. Ok; thank you."

Chairman Farley: "Thank you."

Committee Member Pinckney: "Mr. Chairman, I've got an additional question."

Chairman Farley: "Yes, Sir; Mr. Pinckney."

Committee Member Pinckney: "I do understand you to say that the County and, of course, DHEC and some counties do co-exist."

Mr. Williams: "Oh, yes."

Committee Member Pinckney: "And, is there any – have you experienced any problems with that process or anything that's unresolvable when it comes to permits and things of that nature?"

Mr. Williams: "I am not aware of any. Let's turn around, and ask Wendy. She deals – I have little, my little corner of the state down here that I deal mostly with some of the counties, and where she deals mostly with the rest of the state. I am not aware of any problems, like I say. I know, there have been some instances, particularly recently after we've been told we still have to go ahead and issue our permit, where our permits have been issued, and the county will then step in and say, '*well, no, you don't meet our requirements*', and it's done. I mean, at that point, if the county doesn't allow it, in a way, that makes my job easier. That's one less site that we have to keep up with, I guess."

Committee Member Pinckney: "I guess, that gets back to your initial statement in regards to it's best handled on a local level, versus on the state level when it comes to dirt mining."

Mr. Williams: "There – really sort of back to your initial statement as far as there are certain issues that I think the County can better address as far as land use planning that we're not in a position to be able to do."

Committee Member Pinckney: "Ok; thank you, Sir."

Supervisor Daniel Davis: "Mr. Chairman?"

Chairman Farley: "Yes, Sir; Mr. Davis."

Supervisor Daniel Davis: "Since DHEC is the permitting agency, I would assume that you are the first stop as far as complaints, and you probably hear most of them. How would you rank the type of complaint – like the most frequent, does it regard noise, or is it traffic? Could you kind of just do down the list, maybe, three, four, five?"

Mr. Williams: "Sometimes, it may vary during the time of the year. Quite often, we do get complaints about dust. I mean, we've received complaints I know of, dealt with complaints that would run the gamut, whether it's noise, dust, impacts the ponds nearby, wells nearby, that we have dealt with. Within the – if there are any concerns about wells or ponds, many times we will put language in their permit that states that if it is documented that they impact a well, then they have to either put in a new well, connect them to city water, supply water to them in some fashion, until they can get the water system back up and running, whether that's bottled water, whatever it is they may have to do. We've had mine sites where it was clearly evident that they've lowered water levels in ponds. They have options there to turn their pumps off or pump water over to the pond, or there may be other engineering avenues or things that they can do to restrict the impact to the ponds or wells that may be nearby. In trying to say which would be the most common complaint, again, it's kind of difficult to do. Sometimes, it may vary. If they have a long, hot, dry Summer, then it's going to be dust that we'd hear most about. If you have a lot of rainy, wetter weather, then it would probably be the mud that gets tracked out onto the road that we'd be dealing with."

Chairman Farley: "If you had a 20/30-foot mine, and it's going to affect someone's water, they shouldn't be drinking water from 20-30 feet anyway."

Mr. Williams: "There's still a lot of people that have shallow wells."

Chairman Farley: "That they drink?"

Mr. Williams: "Yes."

Chairman Farley: "And run their household out of?"

Mr. Williams: "Yes; they do."

Committee Member Steve Davis: "They can't afford a deep well."

Chairman Farley: "Well, then they ought a move to the city."

Committee Member Steve Davis: "Yeah; people in the city, they don't want no low income folks living next to them, sometimes. They can't afford it – too high priced. I mean, that's a simple solution you'd think, but that's not a reality. This is a question I have. You would admit that if a person has a right, you know, if they know this right exists, then this whole take about the complaints after-the-fact – I'll tell you why I present this question. Sometimes, when the folks see state government, people just acquiesce, and say, *'there's nothing I can do'*. When local officials tell me there's nothing they can do, you know what, that's a DHEC issue, and folks seem they don't have any re-dress, especially, when your Home Rule, local concerns have been handed over to DHEC, in essence. And so, you put the average citizen at peril to try to re-dress the issue with no local input. And so, I think that's the central issue that exists, not so much what occurs after. The central issue is are we going to do something on the forefront to afford our citizens the rights that, maybe, the state specifically, i.e., DHEC does not afford them."

Mr. Williams: "That's why ya'll are here."

Mr. Callanan: "Mr. Chairman?"

Chairman Farley: "Mr. Callanan."

Mr. Callanan: "You know, you had made a statement that kind of put exactly where my opinion is here is that there are certain things that the County can address much better than DHEC, and adding to that, obviously, there are certain things DHEC can address much better than the County can. And, that's – I just don't want to see them mix together, where one tries to do the other's job, so my goal is just to keep them separate, but my question has to do with – can you explain the extent of the reclamation process

and what the limitations of it is and just what kind of the history of it is, generally, when a actively used mine is reclaimed? What's there after they're gone?"

Mr. Williams: "In essence, when the South Carolina Mining Act was first passed in 1974, I think it was, it was basically a reclamation law, and that was it, to insure, bottom line that whatever land was disturbed by mining was put back to a useful purpose, bottom line of what we're looking at. And, that can be a variety of uses. On this end of the state, the majority of the sites, once mining is completed, they turn the pumps off. The law, basically, says that all slopes above final water level elevation have to be three-to-one or flatter, have to have 75 percent vegetative cover, permanent vegetation that is established and maintained into the second growing season. The water body has to have a minimum four-foot water depth over 75 percent of the surface area? I'm rattling on; I get my numbers mixed up – 50 percent, yeah. And, so I mean, there are certain basic things there that are required, but bottom line, it has to be put back to a useful purpose. If you look at the types of reclamation that have been done across this state, they've reclaimed the golf courses, subdivisions. We always get hit with landfills. Yes, there have been a few that have been converted to landfills, but if they do that, they then have to get a landfill permit. They come back to our agency to a different part of our agency to get a permit for the landfill. They have to meet those requirements for that. Most sites down here, if they dig the dirt out, they're not going to meet requirements for a landfill. So, I mean, it's a wide variety of things, but bottom line, we're looking for that land to be put back in a stable manner in a useful situation."

Mr. Callanan: "And, you monitor that..."

Mr. Williams: "Minimum..."

Mr. Callanan: "...period after..."

Mr. Williams: "Yes; the way the regulations read, you have to have a minimum of 75 percent vegetative cover established into the second growing season. So, we are looking at least into the second growing season. If we had a site that – if I went out today, and they said they wanted to have it released as reclaimed, if they had a permanent-type grass growing on it like hay or Bermuda or centipede or whatever it may be, something that comes back each year, they have 75 percent coverage, and this was the first growing season, I'd say, next Spring, if it comes up, looks good and everything is stabilized, then the permit is cancelled. At that point, we have nothing else to do with the site."

Mr. Callanan: "And, it's normal for these larger pits, as long as you have that vegetation, you don't see further erosion and, you know, issues where it continues to, essentially, deteriorate?"

Mr. Williams: "If they meet that requirement up front, then that is what we're looking for, at least, the majority of the sites that I've ever gone back to, and sometimes I do. I like to ride back through and see what some of these sites look like. They are

stable. I mean, not to say that we don't have certain sites that you get a large amount of rainfall or something that may cause something to wash out, as you would in any situation like that sometimes could occur. Most of them are stable and continue to function well."

Committee Member Steve Davis: "Mr. Chairman, I've got one follow-up and final question. Mr. Williams, are there, under DHEC provisions, are there any lifespan in relationship for the specific mining operation that receive permitting?"

Mr. Williams: "You mean length of permit?"

Committee Member Steve Davis: "Yes; no, not length – length of operation."

Mr. Williams: "Operation, which, in our mind, would be length of permit. Those will vary, depending upon – there are a lot of things that may change how long a site may operate."

Committee Member Steve Davis: "What's the average with your experience? You've been in this a long time. What do you say?"

Mr. Williams: "A lot of the smaller sites, dirt pits, may go quickly if there's a lot of construction going on."

Committee Member Steve Davis: "What's quickly? Help me."

Mr. Williams: "Two years."

Committee Member Steve Davis: "Two years; and the opposite would be?"

Mr. Williams: "The opposite would be what we're in the situation right now, where there is not much construction going on, so there is not a need for the material, and so there are many of the sites that we go out to right now that there's really no equipment on it. Even in those situations, we may require minimal set of erosion control methods be used to make sure the material doesn't wash off of the site and that they do certain maintenance of the site."

Committee Member Steve Davis: "So, there's no death of the permit then?"

Mr. Williams: "As far as length of the permit, no, Sir. As long as they have reserves available on the site, their maintaining compliance with any other requirements we may have, they are annual operating fees that have to be paid for the mining permits, annual operating fees that have to be paid for the National Pollutant Discharge Elimination System Permit for the discharge permit. As long as they do those, they..."

Committee Member Steve Davis: "Just for hypothetical, say if this County Council would decide to adopt a special exception that we are proposing and had a

lifespan extending not for one year, but for two years, what would be your opinion in regard to that two-year lifespan?"

Mr. Williams: "Again, that would be a decision that the County has made. I know that there are a lot of sites, like I say, if the market is not there for them to be able to sell the material..."

Committee Member Steve Davis: "But, there would be a definite defining cut-off period though."

Mr. Williams: "Ya'll, I guess, maybe, do that. We do not do that."

Chairman Farley: "Mr. Williams? Mr. Davis, I know mines that haven't sold any dirt in two years, because of the economy."

Committee Member Steve Davis: "I understand that."

Chairman Farley: "If we cut them off and told them they couldn't do it anymore, they would have to go through a complete new process?"

Mr. Williams: "I don't know how that would be handled as far as if the County determined that they did not have a permit. I think, our permit might, would still be valid."

Committee Member Steve Davis: "Especially, if no operation have taken place. I mean, the point of the matter is the reason you are here is to solicit information, so I did not mean to put you on the spot. I asked you what's the average. You said, the average is about two years with everything being equal, and so, if we propose, you know, in our special exceptions anywhere from one to two year with certain conditions or criteria being in place, then it's not so unreasonable or arbitrary. That's the word that I want to get rid of – contrivance and arbitrary, you know, because it can be thrown out, literally, all the time, and that's what we're trying to avoid here."

Mr. Williams: "I mean, that might be something we could possibly look at within our database system. I don't know. The fastest that I would say, and hopefully I was clear in answering your question, might would be two years that they've done some of these sites that were permitted for less than five acres. Many of them, I would say, probably, would go much longer, five to ten years, on sites like that, as far as, maybe, an average type time span for something like that."

Chairman Farley: "One of the things that concern me about that though is if you can't see it from the road, the only way you'll be able to see it if you live around it with a buffer is fly over it in a small airplane. Either that or trespass on their property, and if the guy's got 200 acres, and he's gonna dig a 10-acre, you know, borrow pit or whatever you want to call it, you shouldn't be able to see what he's doing back there anyway, if he does undisturbed, doesn't cut any vegetation. It is hard to see past 100 feet."

Mr. Williams: "And, that would be a concern the County would need to address. I mean, from the state's perspective, if he's meeting all the other requirements, then our permit continues."

Chairman Farley: "And, I've seen them with the 'S' roads, as we call it, to where you don't see straight in, and you don't know what's going on there. I talked to a plantation owner, and you know, he's got ponds and everything else, and I told him, I said, *'your gate's locked, so I don't know what's going on down there'*. And, he has 1,000 acres, and he could build a 100-acre pond, so. Yes, Sir; Mr. Schurlknight."

Committee Member Schurlknight: "One more quick question – Mr. Williams, you mentioned ya'll's requirements and setbacks. You said it was a 50-foot setback for property lines?"

Mr. Williams: "For our general permits, those are for sites that are five acres or less, and that is total disturbed area, five acres or less. The permit requires that they have a 50-foot, minimum 50-foot undisturbed buffer to the property line and to wetlands."

Chairman Farley: "Minimum?"

Mr. Williams: "Minimum."

Committee Member Schurlknight: "And, what are some of the maximums? Say, if they've got a residential house, a number of houses right close to his property line, and they want to mine this property, are we still talking about just 50 feet in between?"

Mr. Williams: "It will vary from site to site. I mean, we go with the minimum buffer on those things, and there may be times that we may require more. That's for the general permit that's less than five acres. There are sites that, as Mr. Farley was saying there, that they may have 1,000 – 2,000 acres, and they are mining 100 acres in the middle of it. They may have a couple thousand feet."

Committee Member Schurlknight: "Right; oh, yeah; I understand, but what I'm trying to address is the Smith's and the Jone's living right here. There's a common property line, and they're wanting to mine this piece of property. What would DHEC's standard be as far as a setback, as far as a buffer to protect these people from the mining operation?"

Mr. Williams: "There's a number of things we would look at."

Committee Member Schurlknight: "Is it 50 feet or 500 feet?"

Mr. Williams: "If it's a general permit, the minimum would be 50 feet. If it is an individual permit or even another site, that buffer could be greater. A number of things we would look at that in trying to determine what would be an adequate buffer. Is there

any existing vegetation there? What is the material they are mining? How deep are they mining? A lot of different things what's on there – you may have a common property line there, but is there a house with a well nearby, or is there a pond there.”

Committee Member Schurlknight: “Well, that's, that's what I was talking about. There's houses right there by the property line. It's like the common property line, and how much protection does DHEC offer for those individuals as far as keeping them buffered away from noise, air quality, intrusion, that type of stuff, on their lives that they are living? Do you all do any...”

Mr. Williams: “A number of different ways, again. We don't have a set number that we always look at. If there's dense vegetation...”

Committee Member Schurlknight: “Ya'll got to play it by ear when you get out there.”

Mr. Williams: “We get out there. We look at it...”

Committee Member Schurlknight: “And see what's out there.”

Mr. Williams: “And see what's there.”

Committee Member Schurlknight: “And how much people complain, and what out's there.”

Mr. Williams: “I mean, up front, we try to make sure the site is permitted so we don't get complaints.”

Committee Member Schurlknight: “Right.”

Chairman Farley: “And, every case could be a different scenario.”

Mr. Williams: “Yeah; each site can be looked at differently. If you've got dense vegetation there, then you might be able to come up closer, or if the mine operator proposes to go ahead and put in a berm, or not necessarily even a berm, but does different types of landscaping out there to where you put in a tiered-type vegetative material to where you give a good visual screen, then the buffer could be considered to be less.”

Committee Member Schurlknight: “And, that's what my question was. What kind of protection does DHEC provide for the property owner that's on the opposite properties living close to the property line? What are those requirements?”

Mr. Williams: “It would be those type requirements, yeah. One of the reasons we do send out the public notice. On the individual permits, we get out and look at the site before the site is permitted to make sure we understand what the site looks like.”

Committee Member Schurlknight: "Right; ok; thank you."

Committee Member Cathy Davis: "Mr. Chairman?"

Chairman Farley: "Yes, ma'am."

Committee Member Cathy Davis: "Once a permit has been issued, what type of monitoring is done as far as making sure that they stay in compliance with?"

Mr. Williams: "We do as many inspections as possible, as we can. Our goal in the past had been to do at least two inspections per year at each mine site. Certainly, with current budget constraints, that has been hard to get done right now. We've lost personnel and so, it makes it harder to get out and do the inspections, but we do try to get out as much as we can and look at the sites."

Chairman Farley: "It's also not – you don't announce that you're coming to inspect."

Mr. Williams: "No, we do not. We do unannounced inspections."

Chairman Farley: "That's a good thing. That keeps them on their toes, as we want to say. Alright, anymore questions – Jack, Steve, Dennis would you like to ask anything? Tim? Wendy, Mr. Williams, thank you so much..."

Committee Member Schurlknight: "Thank you, Mr. Williams."

Committee Member Steve Davis: "Thank you, Mr. Williams."

Chairman Farley: "...for coming and addressing us, and giving us this. I'm hoping we'll come up with a good solution."

Mr. Williams: "As I've told Eric many times, if you have any questions, like I've said, I'm just down the road in Charleston, so please feel free to give me a call. I'd be glad to talk with you."

Committee Member Steve Davis: "You need to move to Berkeley County."

Mr. Williams: "Sir?"

Committee Member Steve Davis: "You need to move to Berkeley County."

Mr. Williams: "I live in Goose Creek."

[Laughter]

Chairman Farley: He lives in the County. Eric?"

Mr. Greenway: "I want to thank Mr. Williams. Many of you don't know. He's just coming back from a trip to Arizona to visit his son, who is in the Air Force, serving the Country in the Air Force out there. So, welcome back, and thank you for coming. I appreciate you. You got back yesterday, right?"

Mr. Williams: "Saturday."

Mr. Greenway: "Saturday; oh, ok; I knew it was close. I'm here to do whatever you all need me to do now. You've heard from Mr. Williams. If you've got any specific questions about the particular ordinance that's been presented to you all, I'll be glad to answer those questions. I can walk you through the requirements again, as I understand them, and how we're going to deal with the amendment, should it be adopted as written, or I'm kind of looking for direction as to what your needs and desires are at this particular point as to what..."

Committee Member Steve Davis: "Mr. Chairman?"

Mr. Greenway: "...you'd like for me to do."

Chairman Farley: "Mr. Davis."

Committee Member Steve Davis: "In keeping with what Tim discussed about two separate criteria, making sure there's no duplication, under the special exception, can you outline, specifically, things that are different that is not covered in DHEC?"

Mr. Greenway: "That's a good question. It would be easier for me, probably, to identify what is covered. In my mind what we would duplicate potentially. And again, I want to make it clear that the purpose of our ordinance is not to require people to do things twice. If DHEC is going to require it, and it might be pertinent to an appropriate land use decision, then they would just send that information to us as a part of the application. Now, another thing I want to talk to you about real quickly is that there is no requirement that someone start the DHEC process before they go through the special exception process. In my opinion, and you're probably gonna get a lot of disagreement on this from people that are on the other side of this issue, is that the only time that DHEC or environmental studies might have to be done would be if someone is going to raise those issues before the Board of Zoning Appeals. We would not require those things as an automatic part of the special exception process, only if the issues are raised. One of the things that Mr. Callanan raised was the surface water and ground water issue. That would be something that would possibly be a duplication. Also, I think, there's language in the special exception process here that talks about that they have to state that they're gonna comply with the DHEC reclamation requirements and give us an end-use plan. There's a purpose for that. We don't want someone to come in and say, *'look, I'm gonna build a pond here for a subdivision, and do a subdivision around that pond later on'*. We want to make sure that there's adequate area left over after that lake is built to put the roads and the lots in that are gonna meet the lot size requirements of the

subdivision and land development regulations. So, that's why we would ask for that to be done."

Committee Member Steve Davis: "And, that's not in the DHEC regulations?"

Mr. Greenway: "I don't think DHEC requests an end-use plan. I think they do specify what the reclamation activity is gonna be and how that's gonna be carried out. We're asking for a plan that would tell us. You know, if there just gonna use it as an open field and leave it as a pond or whatever, then that's the end of the story for them. If they did say they were gonna put a subdivision around it, then we would want to see that there was going to be enough land area to meet the lot size, roads and setback requirements for those lots and things like that."

Committee Member Steve Davis: "And, it's not as if they wouldn't have the opportunity if they said with time to come back with a plan that suggests a change than initially when they started the process."

Mr. Greenway: "Yeah; well, I mean, again, we're not trying to be, you know, we're not trying to catch people short and penalize them. I think I've established that, or at least I hope I've established a reputation since I've been here as a person that tries to do enforcement on a case-by-case basis, and things change, and I recognize that. Economies change; markets change; plans change; and they have to; and we would certainly afford that ability to change their plans should they need to do that down the road. So, we're not, again, we're not trying to do this to penalize anyone. We're trying to do this to paint a clear picture before the use starts, so that the community can know what's gonna go on in their community. And, if they have a concern about it, that there's a process for them to address those concerns before the permits get issued. It's very difficult to carry out enforcement actions on bad sites after something is already operating. And, I'm not saying that anyone's going to violate the code intentionally. Things happen out there that, that a , you know, we have to deal with, and we'll still have to deal with."

Committee Member Steve Davis: "I want to continue that list, because I want to make sure that Tim and I and everybody on this board understand the distinction, because I'm gonna hold my good friend. He said that he's not opposed to anything except, specifically, if it's new condition does not require duplication."

Mr. Greenway: "Yeah, I think those are your only three items, again, the surface issue with regards as part of the public hearing, the DHEC reclamation regulations must be observed, and where surface water features remain or depressed areas created, they need to give us a final grading plan matched to the proposed end-use, as specified in the DHEC Reclamation Plan. So, those are the only three items that may be duplication, and again, I want to make it clear that I don't consider them to be duplication. I consider it to be if you gotta give it to DHEC, just give it to us. We're not, certainly, going to say if Mark Williams approves something that we're in a better position to say that that's not appropriate. I think this is going to be something where I'm gonna be – if this gets

adopted, I'm probably gonna be talking to Mark and the folks at DHEC a lot as we go through these processes to figure out what we can do to make sure we're working kind of hand-in-hand, so that we're not catching people short on either side of the equation."

Committee Member Schurlknight: "Mr. Chairman?"

Chairman Farley: "Yes, Sir; Mr. Schurlknight."

Committee Member Schurlknight: "Quick question – Eric, you're talking about duplicating with DHEC. Now, I know, on this proposal it makes mention about noise and some other things. I'm talking more duplication on ordinances that we have already existing. If you could tell me why we would want to list the noise in this proposal when we already have a noise ordinance?"

Mr. Greenway: "Yeah; the reason that is, we do have a noise ordinance some place. Our thinking here was that people may go into this process and not realize that we have a noise ordinance until it's too late. We want them to simply just sign a statement saying that they have acknowledged that they've read our noise ordinance, and they understand going in before they start operating what those requirements are, and that's simply all they have to do. It's just a statement with their intent to comply with the noise ordinance. It's nothing more than that."

Committee Member Schurlknight: "Yeah; and that's – and I guess, that might be a weak example I'm using, but that's another example of layers, government on top of government, duplication of things we've got going on."

Mr. Greenway: "Well, I mean – yeah; you know, I don't want to – I don't mean to disagree with you there, but I don't consider that to be a duplication. I consider that to be a clarification. A duplication, in my opinion, would be if we said, '*ok, everybody else is underneath this noise standard, but mining operations have to adhere to this stricter and tighter standards*'. We're just asking them to read that noise ordinance as a part of the special exception process to make sure they understand it and that they intend to comply with it."

Committee Member Schurlknight: "Ok, we can debate that, talk about that a little later on."

Mr. Greenway: "We probably could."

Committee Member Schurlknight: "My next question is the hours of operation. Now, I'm up every morning at 5:00 o'clock in the morning to feed my horse. I'm listening to the road, and you've got log trucks, you got 18-wheelers, you got trains, you got stuff going on, and then we're gonna turn around and limit when they can open the mine up, when those trucks can start rolling, and then you have workers waiting on that material, especially, if it's got to be pulled 50 miles across the County."

Mr. Greenway: “Yeah; and again, you know, we spent a great deal of time discussing this at the Mining Task Force level. It drove me crazy, to be quite honest with you, personally. We talked about operation hours until I was, you know, ready to go home and go to bed myself and hope I wasn’t woken up by a mine site the next morning. But, anyway, the hours of operation were discussed at length. The thought behind that was that the mine, and I would get on to folks when they would bring this up, that school buses are on the road early in the morning taking kids to school and didn’t want that truck traffic interfering with the school bus traffic. I don’t – I never did buy into that argument. I don’t buy into that argument today, and I would tell people that I don’t buy into that argument, because, you know, we have tons of school buses passing trucks going to and coming from school every day, and I’m not sure that you can tie a safety issue to a mine truck operator and school buses and things like that. But, having said that, the Mining Task Force talked about hours of operation a long time. There was a lot of ideas thrown out, and the compromised position as the Mining Task Force was the hours that got inserted into the ordinance. That is the compromise that everyone kind of had as a consensus at the time we discussed it. Now, what’s happened since we had that consensus and what is going on today, I’m not real clear as to how all of that transpired, but we only inserted things in this amendment that we generally had consensus on at the time that they were inserted into the amendment.”

Committee Member Schurlknight: “I’m just not sure if we can legally even do that by just identifying just the miners and putting limits on their operation. Then, you have the loggers; you’ve got everybody else going full bore.”

Mr. Greenway: “Right, and the only thing I would say about that right now is we have it as a regulation in our current zoning ordinance – for heavy industrial, we limit the hours of operation for mine sites and heavy industrial, currently, at 6:30 to 6:30, so. And, we discussed 6:30; we discussed 7:30. In reality, I don’t think it matters what time you allow them to open up.”

Committee Member Schurlknight: “How did we wind up with – what is it, 7:30?”

Mr. Greenway: “We wound up with 7:30, because that was the compromise. Some people wanted them to start at 8:30. The mining folks wanted them to start at 6:00-6:30, you know, 7:00. It was almost like an auction, you know, going on.”

[Laughter]

Mr. Greenway: “You know, an hour and half hour, we finally settled on 7:30. I don’t think anybody was happy on either side of the equation about 7:30 to be honest with you, but that was the compromise.”

Committee Member Schurlknight: “Yeah, but, I would think on a construction standpoint, 7:30 before you can even leave the pit with your material...”

Mr. Greenway: “I agree.”

Committee Member Schurlknight: "...is pretty late in the day."

Mr. Greenway: "Yeah, and we discussed all of that, and we basically said it don't matter what time you allow them to open. The people that drive the trucks are going to be at the gate as early as they can possibly get there. My neighbor, up until a few weeks ago, drove a dump truck for Murray Sand over in Dorchester County."

Committee Member Schurlknight: "Right."

Mr. Greenway: "At 5:15 every morning, he was cranking up his dump truck, and he and I share the same driveway, so he was cranking up his dump truck ready to go to the pit to get his first load, because they get paid based on the number of loads they haul every day, and they want to be close to the front of that gate in the morning so that they can start making money early."

Committee Member Schurlknight: "And, then the other problem is when a construction company has a requirement to where you've got to work at night, because of traffic issues and getting material."

Mr. Greenway: "And, we wrote language in there to cover that at the request of one of the mining persons. That last meeting that we had with the Mining Task Force was probably the most productive meeting that we had, in my opinion, through the entire process. Mr. Hand raised the issue about night work. So, the folks that were on the other side of the issue said, '*yeah, we understand that there's gonna be a need for night work*', so they agreed again by consensus to write some language in there that allowed me to allow night work if they gave me the correct documentation for the duration of that night work that needed to occur. So again, this ordinance, you know, you guys have been fed, in my opinion, a lot of bad information about what this ordinance is regulating and all, and I'm here tonight for you to clarify the issues. There is provisions in there for night work. There's provisions in there again for the less than five-acre mine sites. At that last meeting, someone said – previously to that, everybody agreed that a year was sufficient..."

Committee Member Schurlknight: "Right."

Mr. Greenway: "...for mine sites less than five acres to be able to work. That last meeting, someone raised an issue and a concern about, maybe, a year wasn't long enough. So, we inserted language in that last meeting to allow it to go up to two years for the zero to five-acre threshold. So again, I think there's been movement on both sides of the issue here. No one side is trying to, trying to hold the other side hostage. I think, the people that represent the mining industry on there realize that there was going to be some things that they had to give on, and I think, the people that represented the community and the Planning Commission realized that there were some things that they were going to have to give on. And, I think, we ended up with a fairly good ordinance. Now, does it need to be changed or modified? Probably so."

Committee Member Schurlknight: “And, that’s what I’m trying to is to try to weed through all of it, and try to get to the facts and look at it exactly what we, you know, because I do think we need to hit a good compromise on both sides of the issue. One of the things it’s talking about is the public hearing, to give the public ample enough opportunity to come out and speak about the mine itself as proposed in their general area. Eric, what’s your opinion on the public hearing as far as – would you agree if we do vote for that, that should be on the front end before the mine even goes to DHEC to make sure they cover it with us?”

Mr. Greenway: “Yeah; I just don’t – I think, I think, that’s going to be your likely scenario. I don’t think someone is going to spend all the money doing the information in the plans that DHEC is going to require until they know that they’re gonna have local zoning approval. And, I think, there is even a block on the DHEC application, the permit application, that says ‘*Does your site comply with local zoning requirements?*’, and they have to check that, so I think that is going to be the scenario. Certainly, they could go through the process any way they could manage it to get everyone satisfied.”

Committee Member Schurlknight: “And also, in keeping the hearing from being so subjective, do you feel like that we could come up with a, a list of things that as long as they meet those requirements?”

Mr. Greenway: “Yeah; Ms. Ewing and I, County Attorney Ewing and I discussed that over the last couple of weeks, because we knew you would raise that concern at the last Land Use Committee Meeting. We’ve begun working on that particular item. We have not made any changes at this point to what this ordinance would be, because we wanted to get through this workshop to see what other changes we may need to address. Certainly, we can tighten down on those criteria to make them more objective, and some people feel they’re subjective criteria. I don’t think so. It’s the type of language that you’re gonna see in any special exception process across the state.”

Committee Member Schurlknight: “Yeah.”

Mr. Greenway: “If we need to tighten down on those, we can certainly re-write those to make them more objective criteria, so that people know that if they meet this, then they are going to be able to go forward.”

Chairman Farley: “Jack, in the next week or so, if anyone can come up with any amendments or things like that that they feel like would need to be changed, write them down, bring them to the Committee, and we’ll see what we can do about inserting them or so forth.”

Committee Member Schurlknight: “Ok; I was just trying to get kind of a feel for Eric’s opinion, but, yeah, we can do that. Mr. Davis?”

Mr. Callanan: “Mr. Chairman?”

Committee Member Steve Davis: "I'd like to get a chance."

Chairman Farley: "Hold on; Mr. Callanan."

Mr. Callanan: "The questions I have are – you had mentioned before that, you know, there's some question as to whether or not the mine operator will have to go to DHEC first or not."

Mr. Greenway: "Well, I don't think there's going to be that possibility based on the DHEC process, because the mine operator will have to check a box on the permit application saying that their site complies with local zoning regulations."

Mr. Callanan: "Right; but you know, part of the concern is, you know, spending an enormous amount of money on some of these issues, you know, drainage and stormwater run-off being one of them, and you know, with some of this subjective criteria. And, it is subjective, and I'll go over that in a second – you know, out there, which is why I wanted to separate the environmental issues, leave them up to DHEC, and the Planning and Zoning issues, and leave them up to the County. So, this way that, you know, if they don't, if they bring this before the County, it'll be a conditional approval based on them getting their permit from DHEC when it comes to items like drainage."

Chairman Farley: "Right."

Mr. Callanan: "And, the other – because they're gonna have to show you, under these special exceptions, they're gonna have to show you some sort of engineering plan that's going to take all of that, all of those issues into account when – then it can just be knocked down, because of – and it is subjective language, where it says something like residences may be negatively impacted. When you use language like that, listen, one additional truck going by my house to one person could mean negative impact."

Chairman Farley: "Right."

Mr. Callanan: "So, you know, you don't want to leave, you know, have them spend all this money up front and then be knocked out of contention because you've had a series of homeowners come in who say, you know, *'four additional trucks a day is going to negatively impact my life'*."

Mr. Greenway: "Yeah, and I think, and I understand what you're saying on that. You know, the board has to find that that would be a negative impact, the BZA. A majority of the BZA members would have to find that that would be a negative impact. That concerns a lot of people, and I certainly understand that thinking. Somebody gets up and says, you know, *'I don't want this here, because four additional trucks are gonna go by my house'*, you know that, I think, most people would think that that would be unreasonable to say that that's a negative impact on them. So, I don't know that the board would always find that. Does that possibility exist? Yeah, it does. I mean, I can't

stand up here and say that will never happen, but the reason that we wrote it the way we did, or the way I wrote it the way it was written is, at the same time, I didn't want someone to be able – and the task force asked me initially to write language very specific. It was going to get something like if the truck passes 10 houses between the mine site and the arterial road, then that would not be compatible with the area and things like that. And, I just felt that we might have more problems long term dealing with an issue like that than we would, because if there's nine houses on that road, and it's really a possibility that a mine site should not be on that road, then the BZA may not be able to deny that permit, and there might be a legitimate reason that we just can't think of today to deal with those issues. I've been in this business, you know, long enough to understand that, you know, things in this Country change quickly, always for the better, and when I started doing this back in 1993, I don't think I could have ever imagined that we would be communicating on cell phones and doing most of our communication through Facebook and Twitter Accounts and Skype and things like that. So, we don't know what the future holds, you know, two or three years even down the road. So, you know, we're just trying to leave that possibility open that if something does arise, that we've got some flexibility to deal with it."

Mr. Callanan: "Right, but you know, my – here's my preference. I'll just get this out of the way, because this will clear up Mr. Davis' misunderstanding of what I was trying..."

Committee Member Steve Davis: "His understanding."

Mr. Callanan: "...which was the way I view it is that you've got a conditional approval for the smaller pits, right, at this level, right, at this level?"

Mr. Greenway: "Right."

Mr. Callanan: "Right?"

Mr. Greenway: "That's correct."

Mr. Callanan: "I just think there should be a conditional approval for the larger mines, maybe, at a little bit higher level. And, this way, everybody knows up front what's required, you know. I don't always agree with, you know, leaving this kind of open to interpretation, you know, I've, you know, I've expressed this to you. You know, sometimes, the BZA will make a – will determine something as a hardship that I just simply can't imagine how that anyone can view that as a hardship, and approve some sort of variance for it. So, I just think, leaving something a little bit more concrete for these folks makes it, you know, makes the playing field a little bit easier when someone's buying a property; they know what they have to do to get it across the finish line; if they meet those higher level of standards, they'll get there."

Mr. Greenway: "You know, that's certainly another possibility, you know, way to look at this. It will take the public out of the process though."

Mr. Callanan: “No, it won’t; it doesn’t, because on the Planning Commission, right, they can’t arbitrarily decide, because a bunch of people complain that that is, you know, *‘we’re not gonna, we’re not going to do that’*. Well, if it meets certain standards, it has to be approved.”

Mr. Greenway: “Right; yeah...”

Mr. Callanan: “But, the people still are allowed to speak.”

Mr. Greenway: “Right.”

Mr. Callanan: “And that’s, and that’s what I’m getting at here.”

Mr. Greenway: “Ok; I misunderstood. For me, when I hear conditional use, that’s an in-house approval, that if they meet all these conditions I, as the Zoning Administrator, have to approve the application, and there’s no public process. So if...”

Mr. Callanan: “Ok; I understand what you are saying.”

Mr. Greenway: “...there’s a – if we’re gonna leave it as a special exception and hold a public hearing and tighten down on the conditions that must be met before the BZA can deny an application or something like that at the public hearing, then I agree with – I understand...”

Mr. Callanan: “Well, I mean, it could be a case where we just say for the larger mines...”

Mr. Greenway: “Right.”

Mr. Callanan: “The BZA...”

Mr. Greenway: “I understand what you are saying now.”

Mr. Callanan: “...approves that the conditions are met.”

Mr. Greenway: “Right.”

Mr. Callanan: “And, in that case, they would be allowed public...”

Mr. Greenway: “Yeah; I understand, I understand what you are saying now.”

Mr. Callanan: “Ok; I’m done.”

Committee Member Steve Davis: “Mr. Chairman, may I please...”

Chairman Farley: "Mr. Davis."

Committee Member Steve Davis: "...since I don't understand. Tell me what, exactly, is a conditional approval?"

Mr. Greenway: "Ok; alright, there's, there's three types of zoning approvals. There's a permitted use, and that's, basically, based like – Flex-1, has permitted uses. Anything listed as a permitted use, they meet the setbacks, they get the permit, they're there, they don't have to do anything else. Then, you have conditional use, which is, I call this use – it's just a set of conditions that says if you want to do this in this Flex-1 zoning classification, like boarding horses is a conditional use in Flex-1. If you have five acres, you can have this many horses. If you have ten acres, you can have this many horses. You gotta do this with the manure. You gotta put the water trough here. You've gotta put the hay pile over here..."

Committee Member Steve Davis: "Stop right there. In that instance, you are satisfied as an Administrator then that if these conditions are met, then they don't adversely affect anyone, apparently?"

Mr. Greenway: "That's correct; and, that's basically what we're doing with the zero to five areas – conditional use. If you meet these conditions, you can go operate this mine for up to two years. You don't have to ask anybody or go to a public hearing. Then what you have is a special exception. The special exceptions says..."

Committee Member Steve Davis: "And, I'll stop you right there. This is where Tim and I got to decipher different. He would prefer, not to put words in his mouth, a conditional approval instead of special exception."

Mr. Greenway: "I think he prefers special exception with a set of tight or more concrete conditions that the board would have to use to approve that request."

Committee Member Steve Davis: "Objective..."

Mr. Greenway: "Right."

Committee Member Steve Davis: "...criteria."

Mr. Greenway: "I still think he's with the public hearing process for the larger mine sites to get the public input."

Committee Member Steve Davis: "And, I'm in agreement with objective criteria."

Mr. Greenway: "So, the special exception is, basically, a process that says, you know, there's some things that may be appropriate. Like in Flex-1, we allow bed & breakfasts' by special exception."

Committee Member Steve Davis: "So, this is three different criteria, I mean, three different modes of operation in a sense."

Mr. Greenway: "That's right."

Committee Member Steve Davis: "So, anyone who's coming forward and saying that we're trying to eliminate mining in Berkeley County, that's not credible."

Mr. Greenway: "Well, yeah, and I think it goes into the property rights argument and the, you know, government, you know, more government is always bad, and that's what we're getting here, more government..."

Committee Member Steve Davis: "And, while we have you there, if this is gonna help my good friend Schurlknight approve this, I would amend for the 6:30 operation, right, if that's gonna help you, Jack? I could see that."

Committee Member Schurlknight: [Inaudible]

Committee Member Steve Davis: "Thank you. And, Tim, in reference to objective standards, I don't see no reasons with that."

Mr. Callanan: "You know, my point was it was not – I'm just – I'm not a fan of the word, the term, special exception. I think it's just a different class of conditional approval where, rather than the packet being presented, it's presented to you, then you go to the Board of Zoning Appeals saying they've met the conditional approvals, you know, for their approval, and it allows people to speak."

Mr. Greenway: "Right; and we can do some research on that. I went through a similar situation with the Telecommunications Act back in the mid to late '90's, whenever that was adopted. We, you know, cell towers were approved pretty much by special exception processes, and the Telecommunications Act basically specified that if they meet all their criteria, the cell phone towers meet all the criteria in your special exception ordinance, you have got to approve it."

Mr. Callanan: "Right."

Committee Member Steve Davis: "But, you still keep the, you still keep the reference of special exception."

Mr. Greenway: "That's correct. You still had a public hearing. They had to prove that they meet all the criteria in there, but generally, unless someone could raise a legitimate concern as to how they did not meet that criteria, then they got to build the tower."

Committee Member Steve Davis: "And so, in that point, the public gets an opportunity really to review or to be subjective to sufficient basis to why this decision was rendered."

Mr. Greenway: "That's correct."

Committee Member Steve Davis: "And so, in all these instances, the ordinance before us provides for public hearing, identifies public hearings..."

Mr. Greenway: "Just in one instance."

Committee Member Steve Davis: "In special exception."

Mr. Greenway: "Special exception, Flex-1."

Committee Member Steve Davis: "Ok."

Mr. Greenway: "Everything else is conditional use."

Committee Member Steve Davis: "Ok."

Mr. Greenway: "In this ordinance. And, we're opening mining up to Light Industrial zoning, which has..."

Committee Member Steve Davis: "Great opportunities for mining."

Mr. Greenway: "...never been allowed, right. But, you know, the percentage of HI and LI zoned property in this County is small. Hopefully, we'll correct that with the comp plan issue. And, Mr. Callanan, to your point, we might even be able to call that something else. There may be some other approval mechanism out there that I'm not aware of that we can call this approval mechanism that will accomplish the same thing without using the term special exception. So, Nicole and I can research that and present some ideas back to you all."

Committee Member Steve Davis: "And, one other thing in reference to my good friend Jack. When we were talking about the noise ordinance, all you are telling the permitting individual is we have a noise ordinance in place."

Mr. Greenway: "Right."

Committee Member Steve Davis: "You are gonna have to comply with it."

Mr. Greenway: "Yeah, and that's based on my experience."

Committee Member Steve Davis: "Yeah; County Council passed it."

Mr. Greenway: "Right."

Committee Member Steve Davis: "Not DHEC."

Mr. Greenway: "Right."

Committee Member Steve Davis: "County Council."

Mr. Greenway: "That's right."

Committee Member Steve Davis: "Thank you."

Mr. Greenway: "And, the reason that's in there is based on my experience enforcing the noise ordinance. I get called out a lot on the noise ordinance, and whenever I go out there, people say, *'well, I didn't know we had a noise ordinance in the County.'* So, in this particular case, it just says you signed a statement saying that you knew we had one, so. They're probably not gonna read it, but, you know, it's like that credit card, you know, agreement, that you sign when you get a credit card."

Committee Member Steve Davis: "Since we are laying some things out on the table, there's one other big issue, this 1,000 feet, versus 500 feet."

Mr. Greenway: "Yes."

Committee Member Steve Davis: "Tell us what was the mindset behind that."

Mr. Greenway: "Alright; the mindset behind that is, essentially, that's a separation requirement. We settled on the 1,000 feet, because again, we debated that again and a lot at the Mining Task Force level. I think the mining folks were pushing for 500, 400, 300, 200. I don't even, I don't even know if the mining folks knew what distance they wanted. They just knew they didn't want it to be 1,000 feet. So, the folks that were on the community side of the equation wanted the 1,000-foot requirement, because some of the task force members went out and rode some of these mine sites and talked to some people over in Dorchester County, and the 1,000-foot requirement, those that were 1,000 feet away, that seemed to be in that person's mind, the average drop-off area where people would not have a concern about the mine site. Is that going to be problematic? Maybe; I don't know yet. You hear people saying all kinds of things about how much land is needed to do a mine that's 1,000 feet from a dwelling and things like that. You know, I don't know that that's true stuff. Folks could do a lot. I've got a picture in my office that actually shows what 1,000 feet looks like. If you saw it on an aerial photo, it wouldn't be that large of an area. It sounds large. Essentially, we require bars and liquor stores to be 1,000 feet from churches, schools, playgrounds. We require adult entertainment establishments to be 1,000 feet from residences, churches, schools and playgrounds. So, that's where some of the distance requirements came from. Other ordinances in the state require up to 2,500 feet away from a residence for a mine site and further distances if there's going to be blasting involved. So, is there a reasonable basis

for 1,000 feet? Some people could argue yeah, some people could argue no. Who's right, I don't know. It's just what we're comfortable with requiring in that particular case."

Committee Member Schurlknight: "Mr. Chairman?"

Chairman Farley: "Yes, Sir."

Committee Member Schurlknight: "Eric, just for clarification, because this is where I kind of got off track in the beginning with 1,000 feet. I thought I was hearing that it was a 1,000-foot buffer around the perimeter of the property. Now, for clarification, we're talking about 1,000 feet..."

Mr. Greenway: "From the mine pit."

Committee Member Schurlknight: "From the mine pit..."

Mr. Greenway: "Yes, Sir."

Committee Member Schurlknight: "...to a residential house?"

Mr. Greenway: "That's correct; use to use."

Committee Member Schurlknight: "Just to the house, but not around the perimeter of the property."

Mr. Greenway: "Not around the perimeter of the property; just to the use."

Committee Member Schurlknight: "Ok; just to the house..."

Mr. Greenway: "One thousand feet to a house, a thousand feet to a church, a thousand feet to a school, a thousand feet to a playground, a thousand feet to any designated recreation area in the Francis Marion National Park."

Committee Member Schurlknight: "Ok; now, what would be the set-back if it's not the National Forest or a house or school or whatever?"

Mr. Greenway: "It depends on what..."

Committee Member Schurlknight: "If it goes up to wooded properties..."

Mr. Greenway: "It depends on what..."

Committee Member Schurlknight: "...vacant properties?"

Mr. Greenway: "...on what the adjacent property is used for. It could be as low as 50 feet if it is vacant land. It could be as much as a 100-foot buffer if it's, you know, if there happens to be some other type of use on the property."

Committee Member Schurlknight: "So, this would revert back to our existing zoning and what the property..."

Mr. Greenway: "That's correct; that's correct."

Committee Member Schurlknight: "...is zoned for and the set-backs within that zoned property?"

Mr. Greenway: "Yeah; with one exception to that. The task force realized that there were gonna be cases where these mines were gonna be out adjacent to wooded areas, and if you had a house that was, you know, 400, you know, well, you couldn't use that. Let's say you had a house 1,100 feet from the property line, and they've got to put in a 100-foot buffer, but everything between that 1,100-foot is wooded and all of that, then the mine operator gets to put in a reduced buffer. They get to mechanically plant the buffer with pine trees and then harvest those pine trees later on."

Committee Member Schurlknight: "So, if you've got a track of land that was R-2 next to it, and there would probably be a subdivision to go in there later, you would give that consideration?"

Mr. Greenway: "We'd give – no, we wouldn't give – we would give the present use of the property consideration..."

Committee Member Schurlknight: "Right."

Mr. Greenway: "Not what may happen there in the future. The ordinance is clear on that. If somebody moves in there after the fact, the separation requirements do not come into play."

Committee Member Schurlknight: "Thank you."

Chairman Farley: "One of the things, Eric, was that the buffer was pine trees, Loblolly Pines?"

Mr. Greenway: "Yes, Sir."

Chairman Farley: "How old or how big do the Loblolly Pines have to be?"

Mr. Greenway: "They just have to be seedlings. They can mechanically plant those seedlings, just like they would any, any pine, any timberland."

Chairman Farley: "And, after they plant that buffer, they can start..."

Mr. Greenway: "They can start operating."

Chairman Farley: "...start operating. Well, you see, the problem that I've got with that is that it will take seven years for those trees to get up to be a buffer."

Mr. Greenway: "Yeah; and again, that's the only, that's only in cases when the distance on the adjacent piece of property is vegetated with the distance that's required for that buffer on this property, so. There's gonna be protection already there."

Chairman Farley: "I think, undisturbed is going to be the key."

Mr. Greenway: "Oh, yeah; I agree. Anytime you can leave it undisturbed, you're better off, but a lot of people are going to be taking fields and converting them into these mine sites."

Chairman Farley: "You have anything? Mr. Davis?"

Committee Member Steve Davis: "All I want to say is I think that the Mining Task Force individuals – they did a tremendous job. I mean that with all due sincerity, because it puts us in a position here to just kind of, the proper word is, we're gonna get to poke at it to some degree, but I think a lot of effort went into what they comprised. Is everybody gonna be happy? I don't know. Maybe, that's the art of compromise, but I think we can pass something, and I think we must pass something. And, I adhere to the term that Mr. Williams left with us is that under Home Rule, I think, it is very important that we, as local elected officials, have a tremendous say in this, and just don't leave this up to DHEC. And, I challenge each and everyone on County Council – this is what we need to do. And, if we can create a situation where we can really adopt what the Mining Task Force put forth, it seems like they've addressed so many concerns. I really believe that they have. And so, I commend them, and I commend you too, Eric. I think the County is very fortunate to have you in the role that you play for Berkeley County. I commend you. I think your straight-forwardness in trying to really reach a medium that addresses all concerns speaks volume, and only put the ordinance on us as County Council Members to try to pass this ordinance. Thank you."

Mr. Greenway: "Thank you very much."

Chairman Farley: "Are there any more questions? Any – Jack, do you have anything else?"

Committee Member Schurlknight: "No; I'm alright; thank you."

Chairman Farley: "Dennis, Cathy?"

Mr. Greenway: "Just for clarification purposes, what I'm kind of taking away from the workshop tonight, that I'll be working on with Ms. Ewing over the next couple

of weeks here is that you all want us to reduce duplication in this ordinance with the DHEC requirements and processes; you would like for us to tighten the criteria in the special exception process, so that folks can have a reasonable expectation of what they can and cannot get approved; and you would like for us to change the operation hours to 6:30. If you have any other – if you ever have any – if you have any other issues, just let Mr. Farley know, and he'll get those to me, and we'll change that, but those are the three major issues that I'm taking away from tonight.”

Chairman Farley: “Yes, Sir; thank you, Eric.”

It was moved by Committee Member Schurlknight and seconded by Committee Member Steve Davis to adjourn the meeting of the Committee on Land Use. The motion passed by unanimous voice vote of the Committee.

Meeting adjourned at 7:32 p.m.

June 13, 2011
Date Approved

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, District No. 1

Members: Mrs. Cathy S. Davis, District No. 4
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8

Mr. Timothy J. Callanan, District No. 2, ex officio
Mr. Robert O. Call, District No. 3, ex officio
Mr. Dennis Fish, District No. 5, ex officio
Mr. Daniel W. Davis, Supervisor, ex officio

A **meeting** of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, will be held on **Monday, May 9, 2011**, at **6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES:

April 11, 2011

A. Consideration of a proclamation honoring the accomplishments of the 2010-2011 Hanahan High School Wrestling Team.

B. Consideration prior to First Reading of the following:

- 1. Request by W. B. Bazzle, located on 211 Maplewood Road, Moncks Corner, TMS #161-00-02-160, -187, -189, Portion of TMS #161-00-02-031 (13 +/- Acres) from Flex-1, Agricultural District to HI, Heavy Industrial District. Council District No. 6.**
[Staff recommended denial]

[Planning Commission recommended denial – Vote 5-1]

2. **Request by Cypress Village LLC & Worley Investments LLC**, located at 679 Treeland Drive, Ladson, **Portion of TMS #242-00-01-008, -066, -094** (2.04 +/- Acres), from **R-5, Multi-family Residential District & OI, Office Institutional District & Flex-1, Agricultural District to GC, General Commercial District**. Council District No. 5.
[Staff recommended approval]
[Planning Commission recommended approval]
3. **Request by Mark Ahrens**, located on Clements Ferry Road at intersection with Fiddlers Crab Lane, Charleston, **TMS #263-00-02-005** (0.37 Acres) from **GC, General Commercial District to R-2, Manufactured Residential District**. Council District No. 2.
[Staff recommended denial]
[Planning Commission recommended denial]
4. **Request by Dean Hensley**, located at 210 & 216 Cember Way, Summerville, **TMS #232-16-01-001** (1.98 Acres) from **GC, General Commercial District to LI, Light Industrial District**. Council District No. 4.
[Staff recommended denial]
[Planning Commission recommended conditional approval – The conditions placed are for the applicant to rezone all the GC parcels to LI and meet the zoning requirements for Light Industrial.]

C. **Review prior to Second Reading** of the following:

1. **Bill No. 11-05**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Colpar, Inc.**, requested by **T. B. Daniels**, located at the end of Diplomat Lane adjacent to I-26 near the College Park Road Interchange, Ladson, **Portion of TMS #242-00-03-052 & TMS #242-00-03-065, 066, -070** (6.3 +/- Total Acres), from **R-2, Manufactured Residential District to GC, General Commercial District**. Council District No. 5.
2. **Bill No. 11-06**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **MeadWestvaco-Various Entities**, located in the general vicinity of Rose Drive and Turtle Pond Road along Highway 17A, Summerville, **TMS #221-00-00-137, -062, -083, -092, -087, -088, -089, -145 & 221-16-01-019, -020, -022, -038** (49 +/- Acres) from **PDMU, Planned Development Mixed Use District & R-1, Single Family Residential District to PDMU, Planned Development Mixed Use District**. Council District No 4.

3. **Bill No. 11-07**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **John Hopkins**, 1531 Highway 52, Moncks Corner, **TMS #162-00-01-042** (6.75 Acres) from **GC, General Commercial District** to **R-1, Single Family Residential District**. Council District No. 8.
 4. **Bill No. 11-08**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **James Morrison**, 1833 Highway 6, Pinopolis, **Portion of TMS #082-00-01-076** (0.22 Acres) from **Flex-1, Agricultural District** to **GC, General Commercial District**. Council District No. 7.
 5. **Bill No. 11-18**, a **Second Amendment** to **Ordinance No. 09-06-28**, that conveys two acres of land owned by Berkeley County located on Old Highway 6 in Cross, South Carolina, more particularly identified by **TMS# 041-00-04-061** to the **Franklin C. Fetter Health Center**.
- D. Review prior to Third Reading** of the following:
1. **Bill No. 11-04**, an **ordinance** to amend certain sections of **Ordinance No. 01-8-35**, the Berkeley County Zoning and Development Standards Ordinance, as amended, to provide for the **regulation and duration of non-conforming uses** in the various zoning districts.

May 4, 2011
S/Catherine R. Windham
Acting Clerk of County Council